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EUREKA CLUB *v.* COMMONWEALTH.

June 21, 1906.

[54 S. E. 470.]

1. Clubs—Misuse of Franchise—Ouster—Statutes—Implied Repeal.—Acts 1897-98, p. 479, c. 443, § 4, providing for judgment of ouster against a corporation chartered as a social club on proof that it was being conducted for the purpose of violating or evading the liquor laws of the state was not impliedly repealed by Act April 16, 1903 (Laws 1902-04, p. 227, c. 148, § 144), making the willful or negligent failure on the part of any corporate club to comply with any of the provisions of the act operate as a forfeiture of its charter, nor by chapter 270, § 51, page 481), declaring that any corporation that shall willfully and habitually misuse any essential corporate function shall forfeit its charter on motion made by the Attorney General, etc., neither of such acts being inconsistent with the act of 1898.

2. Same—Franchise—Forfeiture—Proceedings.—Act Feb. 23, 1898 (Acts 1897-98, p. 479, c. 443), providing for the forfeiture of the franchise of corporate clubs for violation of the liquor law declares that after service of the complaint on such corporation at least 10 days before the hearing of the complaint, the court shall inquire into the truth thereof. Held, that where the complaint in such a cause was served ten days before the hearing it was immaterial that it was not filed or returned to the corporation court or the clerk's office thereof prior to judgment.

VIRGINIA IRON, COAL, & COKE CO. *v.* CASH'S ADM'R.

June 21, 1906.

[54 S. E. 472.]

1. Master and Servant—Negligence of Master—Contributory Negligence—Questions for Jury.—In an action for the death of a locomotive engineer, whether his employer was guilty of negligence in furnishing him a defective engine, and whether he was guilty of contributory negligence were questions for the jury.

[Ed. Note.—For cases in point, see vol. 34, Cent. Dig. Master and Servant, §§ 1019, 1089-1132.]

2. Appeal—Review—Verdict.—Where there is evidence tending to support the verdict, it will not be set aside on appeal.

[Ed. Note.—For cases in point, see vol. 3, Cent. Dig. Appeal, and Error, §§ 3928-3934.]

SOUTHERN RY. CO. et al. *v.* FORGERY & RICHARDSON.

June 24, 1906.

[54 S. E. 477.]

1. Trial—Instructions—Applicability to Evidence.—Where, in an action against connecting carriers for injuries to a shipment of horses